

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JENNIFER AAL,

Plaintiff,

v.

CAPELLA HEALTHCARE, INC., et al.,

Defendants.

CASE NO. C13-5195 BHS

ORDER GRANTING
DEFENDANTS' PARTIAL
MOTION TO DISMISS

This matter comes before the Court on Defendants Capella Healthcare, Inc., and Columbia Capital Medical Center's ("Defendants") partial motion to dismiss (Dkt. 8). The Court has considered the pleadings filed in support of the motion and the remainder of the file and hereby grants the motion for the reasons stated herein.

I. PROCEDURAL HISTORY

On February 18, 2013, Plaintiff Jennifer Aal ("Aal") filed a complaint against Defendants in Thurston County Superior Court for the State of Washington asserting numerous causes of action, including retaliation for engaging in union activity in violation of a Washington statute. Dkt. 1-1 at 5.

1 On March 18, 2013, Defendants removed the matter to this Court. Dkt. 1.

2 On March 25, 2013, Defendants filed a partial motion to dismiss. Dkt. 8. Aal did
3 not respond. On April 19, 2013, Defendants replied. Dkt. 10.

4 II. DISCUSSION

5 As a threshold matter, the Court may consider the failure to respond to a motion as
6 an admission that the motion has merit. Local Rule CR 7(b)(2). Aal failed to respond,
7 and the Court will consider that failure as an admission that Defendants' motion has
8 merit.

9 With regard to the merits, Defendants move to dismiss Aal's claim for retaliation
10 for engaging in union activity in violation of a Washington statute. Dkt. 8 at 1–2.
11 Defendants argue that the National Labor Relations Act, 29 U.S.C. §§ 151–169, preempts
12 state law in this area and that the Court is without jurisdiction to hear Aal's claim. *Id.* at
13 3–6. The Court agrees and grants Defendants' motion.

14 III. ORDER

15 Therefore, it is hereby **ORDERED** that Defendants' partial motion to dismiss
16 (Dkt. 8) is **GRANTED** for lack of jurisdiction.

17 Dated this 1st day of May, 2013.

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20 BENJAMIN H. SETTLE
21 United States District Judge
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